

All references ^{to the HCP, LSYD} and to the Summary Section.

005484

Gosh, there are just so many areas to speak to beyond my scoping hearing comments it is hard to organize so I will just hit upon the salient points....

(1) (Referring to E.1.a.) According to the L.S.A. Associates report contracted by C.D.F. to review their implementation of the Z'Berg-Nejedly Forest Practice Act of 1973 "Actions should be pursued on two related fronts: Establishing a greater independence from the industry it regulates and asserting a stronger leadership in forestry matters in California."

Now even with the internal knowledge that there needs to be a greater separation from the industry the LSYD projections are still based on the GIS information provided by PALCO and compiled in 1986 - after the Maxxam takeover of the company.

According to Hans J. Burkhardt (co-author of the Mendocino Rules) in Maximizing Forest Productivity (8/94) "The basis for assessing the worth of a timber company holding public trust values is not the product of inventory times stumpage, but rather growth times stumpage...the estimated worth of Pacific Lumber Company (based on inventory existing in 1985) was, using the incorrect formula of inventory times stumpage, one billion dollars: but using the correct formula of growth times stumpage it was \$20 million only, or 2 percent of the total "inventory times stumpage" value. The Maxxam offer of \$868 million and that of Padula of \$910 million were thus clearly made in anticipation of inventory depletion."

So you can clearly see that basing the model and assumptions on Palco's own data and studies made by their R.P.F.'s and analysis of aerial photographs. To paraphrase your own internal reports - there needs to be a separation from the industry you regulate! The fox should not be the source of information for the contents of the hen house! (See Appendix #1 - Relevant info for consideration)

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(2) According to the Model and Assumptions E.1.c. economic parameters of "Maximization of present net worth was used as the objective..."

In passing the Emergency Rules in the early 1990's (1992 or 3 I believe) justification for the declaration of emergency needed to be submitted to the Office of Administrative Law. Here are some excerpts from that submission from the Board of Forestry:

"The forests of this state are in immediate jeopardy. Prudent and responsible forest resource management embodies a legislative recognition that the long-term needs of the public and of the forest-products industry should not be sacrificed to short-term economic gain or maximum short-run consumption of the forest base."

"Economics is not the ultimate criteria with which balancing a decision occurs."

Again, by listening to your own words you have additional evidence of why this requested HCP and LTSY should not be accepted as is - as it contradicts the Boards own internal findings!

(see Appendix 1 - Appendix of relevant info for amendment)
+ Appendix 6

(3) In G.2.a. it states that at least 10% of Palco already forested lands are retained as late seral - however in D.1.a. the "Late seral forest is made up of trees that on average are larger than generally 24"DBH and may have developed a multi-storied structure. It occurs in stands as young as 40 years old but more typically in stands about 50 to 60 years old and older."

However if we consider sustained yield near CMAI (Cumulation of mean annual increment) then for coast redwoods we are looking at closer to 200 years before this is reached - a far cry from the 40 - 60 years in D.1.a.! Now when you think of sustained yield on such depleted lands you need to have a waiting period or an early stage period of say 30 years where harvest/logging is extremely limited before you can resume a 1 or 2 POI (percent of Inventory regime of LTSY! (Burkhardt 1994)

See Appendix 2 and Appendix 3 and
Appendix 10

(4) In section B.2. Maintaining a mix of seral types IS important and even critical for many of the listed species and species of concern in Table 2 List A. However the definition of Late Seral forest in section D.1.a. would not fulfill the requirements for these species - especially providing nest sites for both the Marbled murrelets and the Ca Northern Spotted Owls who need trees considerably (twice) as old for the right cavity formation for the owls and the large lichen and moss covered branches for the marbled murrelets.. I would actually be curious to discover where this definition came from - now maybe in the southern pine plantations of our southeastern united states 60 years would be considered late seral, however in the Coastal redwood ecosystem this definition would not qualify as a late seral forest - and therefore would also not meet the criteria for these species survival!

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Also in B.2. I do not feel that Plum Creek is a model of good logging practices as the company rivals PALCO in logging violations in the west! See Appendix

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(5) While it has not been common practice to grant 50 year ITP's, and while there may be economic reasons for a no surprises policy in some areas (although you would have a hard time convincing me of it) PALCO is not known to operate in good faith, has a record in recent history of numerous timber violations (see appendix), is being investigated for illegal business practices by the federal government - FDIC and OTS - it just does not seem like a move that would be like an ambassador of good faith in our legal system and might even be considered severe government oversight and neglect to issue said permits based on this information and the requirement that ITPs only be issued for otherwise legal activities so you would probably be in violation of 50 C.F.R. 13.21(b)(1). And trust me we ARE watching!!!

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(6) Also based on the ESA, on the rulings in Marbled Murrelet vs. PL Judge Bechtel ruled that any further loss of old growth forest habitat would seriously impact the survival of marbled murrelets in southern Humboldt County. Acceptance of this LTSYP and HCP would result in the loss of over 17,000 acres of ancient and residual forest habitat which would "appreciably reduce the likelihood of the survival and recovery" and would be in violation of the ESA (16 U.S.C. 1539 (a)(2)(B)(iv))!

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(7) In section C.1.a. why is there an expectation "that additional lands will become part of the plan areas" and that those areas will be "covered by the ITPs. Shouldn't they be subject to review before there is an automatic issuance of ITP's - which are really serious exceptions to the ESA!!! Shouldn't they (these additional lands) have to come under NEPA, CEQA, ESA etc. regulations?! It is playing with the shades of gray of the laws to assume otherwise!

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(8) In section C.1.3. historic water quality was not assessed nor noted - only since the accelerated logging since the Maxxam takeover of PL - the question

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remains that under the CA FPA Sec. 4513 and 4512 and 4551 (see appendix) - it would seem that the CA FPA would force you to look at data from 1973 - 1985 in the pre-takeover years and see if there was any appreciable degradation of Water quality in the following years (1986 - 1998) - so you would be looking at 2 similar time periods - about 12-13 years pre-takeover and post-Ca FPA and post-takeover and post Ca FPA . I have a feeling that you would notice a considerable difference since the majority of descriptive characteristics of the WAAs were lack of cover, high levels of siltation, increased water temperatures - all products of poor logging practices as is noted within the Summary itself in section 1.b.3) that 5 watersheds have "significant adverse cumulative from sedimentation" according to C.D.F.!! See appendix 4 & 5

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(9) I would also like to dredge up an old issue but one with relevance to the water quality and resource competition issues in California...logging versus salmon hydraulic mining versus farmers - and it was a battle of economics in both industries! Cumulating with the battle for the passage of The Drainage Act of 1880 and the battle for its repeal. This is especially significant in this case as it deals with competing industries and water quality for down stream users and the effects of debris and mudslides - much as the salmon industry and the 1997 Stafford mudslides are now in conflict with PALCO's logging operations so were the delta farmers in conflict with the hydraulic mining operations. See appendix 4 & 5

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(10) The Deal, the HCP, the LTSYP and the ITP's should NOT be granted based upon a fear of a takings lawsuit ... The language of implied threat in section B.3. that otherwise "...PALCO's dismissal of pending lawsuits alleging that the state and federal governments have TAKEN PALCO's property in violation of the state and federal constitutions.." is this a thinly veiled threat or what - accept exactly what we propose (and we have final say on acceptance), pay us off, trade us lands, bend existing laws, allow us to enter and cut existing ancient forests/old growth formerly protected by virtue of Marbled murrelets and spotted owls and grant us all of this or we will sue you....excuse me - I am not sure of the proper terms for blackmail or threats - but these are they if ever there were any!!!

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(11) In section C.4.a.1) even-aged management practices are discussed including seed tree removal and shelterwood removal - I would ask that you consider these 2 prescriptions as additional varieties of clearcutting, since, in fact they are clearcuts just over a 2 - 5 year time frame. In which case the entire area under even-aged management should be considered as clearcut. This definition of management practices becomes increasingly important when we read in other areas that "late seral forests" are anything pretty much over 40-60 years old at the young end(D.1.a.) and separate from old growth (Table 5) yet in Table 7 there is no "late seral" stage, but a late successional stage and no separate listing for 'old growth' although no new definitions are presented for this new term! and then in section G.2.a. 1. and 2. it states that at least 10% of the lands within each WAA will be late seral (remember this is just 40 - 60 years old) and yet "Old growth (a

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component of late seral) will not be subject to a specific retention requirement within WAAs or property-wide. However, harvesting of old growth not included within the MMCAs will be phased over the first two decades of Plan implementation" This in itself should be enough to stop the deal - it is flat out stating that you will exempt 200,000 acres from the protections of the ESA by issuing an ITP and thereby guarantee that all remaining old growth will be liquidated - and in E. it clearly states that "The predicted LTSY is a control on harvest rates in that the FPRs limit the amount of harvest in any 10 year period to no more than 10 times the LTSY" not broken down by seral type - and since old growth has been both lumped and separated out from late seral it is entirely feasible that within the first decade, even as law suits are pending the last of the old growth will be gone and with it habitat for the marbled murrelets and northern spotted owls and red tree voles and...

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(12) I would also like to bring up 2 important statistical points - and one is to be found in Table 5 - base line conditions - a Sustained yield rate must be figured out based upon growth times stumpage and not inventory times stumpage...AND that needs to be modified by the present condition of the land and the effects of nearly 15 years of accelerated logging depleting the available resource...and that growth be calculated by SCRIBNER RULE in Board Feet and based upon CMAI not just MAI - (Please refer to appendix or to your forestry textbooks to understand the difference the scale you use for your analysis makes upon your outcome and the impacts here are not to be overlooked!!! (See appendix 2 & 3, 6 & 7)

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Again, I am only an early childhood educator and have learned most of my forestry through my Environmental Management and Restoration degree from Merritt College and it and my exposure to environmental law have all been driven by a decade long involvement in working to protect the headwaters forest ecosystem - I come originally from the north east of this country and we get quite excited by a tree in the age range of 150 years.. the first time I realized that trees such as the Coast redwoods existed I was sure someone had gotten it wrong - no tree could possibly grow to be taller than a football field and older than Christianity - and yet we are blessed with this as a reality on this planet - and only in a small region of this planet - to sacrifice it now would be a shame and a sin - and to sacrifice it solely for corporate greed - Pacific Lumber was a family run company which practiced not only sustainable forestry but also sustainable economics - after the takeover by Maxxam this was no longer the case - it is not a handful of politicians nor environmentalists who are preventing Scotia from having a viable economic future - but the practices of Maxxam driven PALCO over the past 13 years. As with the holocaust in W.W.II if we do not speak out we are guilty of complicity - I will not be silent nor should we have to live with the guilt and the loss of so precious a resource - for while trees might be renewable an ancient forest ecosystem that is older than the oldest trees within it - older than the oldest snags still standing, older than the most rotten ancient downed trees - that ecosystem that was here when the climate was different is a fossil remnant of forests that were here long

before humans came to the north American continent - this remnant and precious ecosystem and all whom depend upon it or form it and define it should not be condemned by our silence, by our actions nor by our failure to act - I urge you now as I have throughout the hearings and CDF procedures and scoping hearings and many other times over this decade urge and implore you to do everything within your power to see that this travesty of justice does not occur - that no ITPs be granted, that the HCP be denied based upon biology and sound science, that the LTSYP be rewritten to truly speak for long term sustained yield and that the long term forest health and economic health of the region be valued greater than a corporate raiders threats of a lawsuit due to his abuse of a piece of our natural and national heritage! This is the antiquity that we have within this country to preserve - we do not have the pyramids of ancient Egypt nor Meso America nor the Parthenon of Rome nor the temple of Tibet nor the holy city of Mecca yet we have this precious piece of antiquity alive and vibrant and more ancient than these sacred sites - As William Cullen Bryant wrote..."The groves were g-d's first cathedrals ere man...." And so it comes down to us - the power of a pen to condemn them all to molding and hot tubs and wine barrels and roof beams - or to preserve them with the power of the Endangered Species Act and our other premier national environmental laws. Truly the balance of nature is in your hands - once this remnant is gone and only fragmented pockets in an impoverished landscape remain and the genetic diversity reaches a bottleneck as with the Florida Panther and windthrow and erosion and soil compaction and air quality and temperature and humidity take their toll there may never be another opportunity to see a healthy redwood ecosystem on this planet - some museum piece showcase groves perhaps - but a living breathing ecosystem with wildlife corridors connecting groves - that opportunity will be lost and with it the richness of life on this planet!!

See appendix 8

The magic area

Please accept this statement,
appendices, & inclusion
for your consideration
of the PALCO HCP-LTSYP
& ITP's - & I urge rejection
of all 3 -

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